

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
OF THE
MALBURG GENERATING STATION
BY THE CITY OF VERNON**

**DOCKET No. 01-AFC-25
DATA ADEQUATE
MAY 8, 2002**

NOTICE OF SITE VISIT, EVIDENTIARY HEARING, AND HEARING ORDER

PLEASE TAKE NOTICE THAT the Committee will conduct a formal Site Visit and Evidentiary Hearing on the proposed Malburg Generating Station as follows:

**MONDAY, FEBRUARY 10, 2003
Site Visit begins at 12:30 p.m.
Evidentiary Hearing begins at 1:30 p.m.**

**City Council Chambers
Vernon City Hall
4305 Santa Fe Avenue
Vernon, California 90058**

***(Wheelchair Accessible)*
*(Map Attached)***

Prior to the Evidentiary Hearing, members of the public are invited to join the Committee on a tour of the proposed site, beginning at 12:30 p.m., in the City Hall parking lot. The Applicant will provide bus transportation from the parking lot to the site, which is about one mile from City Hall. Please contact the Energy Commission's Public Adviser to make bus reservations by calling **1-800-822-6228** or email: **[pao@energy.state.ca.us]**. Following the site visit, we will return to City Hall to convene the Evidentiary Hearing at 1:30 p.m.

BACKGROUND

At the Prehearing Conference (PHC) on January 9, 2002, the Applicant and Staff indicated that (1) there were no disputed issues, (2) they were ready to proceed to the Evidentiary Hearing, and (3) they would submit testimony by declaration on all topics. Intervenor CURE neither filed a PHC Statement nor appeared at the PHC.

Mr. Mozen Nazami, representing the South Coast Air Quality Management District (Air District), participated at the PHC and indicated that a representative from the Air District would be available to provide testimony at the Evidentiary Hearing.

The Committee directed Applicant to provide live testimony at the Evidentiary Hearing on the topic of "Project Description" to set the context for the project proposal. The parties were also directed to clarify testimony and revise certain proposed Conditions of Certification for the topics of Air Quality, Cultural Resources, Traffic and Transportation, Waste Management, and Socioeconomics (specifically, Environmental Justice). The list of witnesses for each technical topic is contained in **Attachment A** of this Notice. The remaining schedule for the proceeding is contained in **Attachment B**.

EVIDENTIARY HEARING PROCEDURES

The purpose of the Evidentiary Hearing is to establish the factual record necessary for the Commission to reach a decision on the proposed project. The record is developed by the presentation of oral and written testimony, as well as documentary evidence submitted by the parties. At the Evidentiary Hearing, the parties shall present evidence consisting of declarations under penalty of perjury or sworn testimony in person and exhibits for each topic area.

The parties must identify their witnesses and submit their testimony in writing prior to the hearing. Testimony may be submitted by declaration under penalty of perjury and offered into evidence at the hearing. All witnesses who appear in person shall testify under oath or affirmation and will be subject to cross-examination by other parties.

The parties shall file their prepared testimony, proposed exhibits, and exhibit lists by 5:00 p.m. on **Monday, February 3, 2003**. Any request for additions, changes, or substitutions to the hearing schedule shown in **Attachment A** should be included in the February 3rd filings.

The rules of evidence pertaining to this hearing are found at Sections 1212-1213 of the Commission's regulations. [Tit. 20, Cal. Code Regs., §§1212, 1213; see *also* §1702 (h)]. The regulations can be viewed on the Commission's Internet website at: [<http://www.energy.ca.gov/siting/title20/tofc.html>].

A party sponsoring a witness at the hearing shall briefly establish the expert qualifications of the witness and ask the witness to summarize the prepared testimony before requesting that the testimony be moved into evidence. Relevant exhibits may be offered into evidence at that time as well. At the conclusion of a witness's direct testimony, the Committee will provide the other parties an opportunity for cross-examination, followed by redirect, and recross examination as appropriate. Multiple witnesses may testify as a panel, if warranted.

The Applicant has the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the site and related facilities. [Tit. 20, Cal. Code of Regs., §1748(e).]

Public Participation

Members of the public are invited to attend the Evidentiary Hearing and may offer unsworn public comment upon the matters discussed at the hearing. These public comments will be entered into the record of the proceeding and may be used to supplement or explain the evidence of record. Public comments by themselves, however, are not sufficient to support a finding of fact or a decision on an issue.

The Commission's Public Adviser, Roberta Mendonca, is available to provide information and to assist the public in participating at the hearing. If you have questions about the process or how to participate, contact the Public Adviser at (916) 654-4489 or (800) 822-6228 or email at: **[pao@energy.state.ca.us]**.

Additional Information

For technical questions about the project, contact William Pfanner, the Project Manager, at (916) 654-4206 or email: **[bpfanner@energy.state.ca.us]**.

Questions of a legal or procedural nature should be directed to Susan Gefter, the Hearing Officer, at (916) 654-3893 or email: **[sgefter@energy.state.ca.us]**.

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at 916-654-5146 or email: **[lquiroz@energy.state.ca.us]**.

Media inquiries should be directed to Claudia Chandler, Assistant Executive Director for Media and Public Communications, at (916) 654-4989 or email: **[energia@energy.ca.gov]**.

Notices and other documents concerning this proceeding are posted on the Commission's web site at: **[www.energy.ca.gov/sitingcases/vernon]**.

HEARING ORDER

The record shall be closed at the conclusion of the Evidentiary Hearings on February 10, 2003, unless extended by the Committee. The Presiding Member's Proposed Decision (PMPD) shall be based on the evidentiary record established at the hearing. There is a mandatory 30-day comment period on the PMPD during which the parties may file comments and request clarifications. If any party seeks substantive revisions to the PMPD that would require reopening the record, additional evidentiary hearings may be necessary, including at least 10 days notice, additional briefing time, and an additional comment period of 15 days after a Revised PMPD is issued. If revisions are not substantive, the Committee may incorporate such revisions as Errata to the PMPD and present those recommendations to the full Commission without releasing a Revised PMPD.

All filings shall be served upon all parties and the Energy Commission's Docket Unit, 1516 Ninth Street, MS-4, Sacramento, California 95814-5512. Identify each submittal with "Docket No. 01-AFC-25." Each party is responsible for ensuring that its respective submittals are received no later than the time and dates indicated in **Attachment B**. Filings shall also be emailed to the Hearing Officer and to the other parties with email addresses included on the Proof of Service list.

Dated January 13, 2003, at Sacramento, California.

JAMES D. BOYD
Commissioner and Presiding Member
Malburg AFC Committee

ROBERT PERNELL
Commissioner and Associate Member
Malburg AFC Committee

Mailed to Lists 7095, 7096, 7097

**ATTACHMENT A
TOPIC and WITNESS SCHEDULE**

The parties shall present witnesses in person for topics with asterisks (*); otherwise, the parties may submit sworn declarations.

**MONDAY, FEBRUARY 10, 2003
Beginning at 1:30 p.m.**

Topic	Witnesses
Project Description	Applicant: Ramon Abueg Staff: Bill Pfanner
Alternatives	Applicant: Ramon Abueg Staff: Bill Pfanner
Facility Design	Applicant: Ramon Abueg Staff: Bill Pfanner
Power Plant Reliability	Applicant: Ramon Abueg Staff: Bill Pfanner
Power Plant Efficiency	Applicant: Ramon Abueg Staff: Bill Pfanner
Transmission System Engineering	Applicant: Ramon Abueg Staff: Bill Pfanner
Transmission Line Safety and Nuisance	Applicant: Ramon Abueg Staff: Bill Pfanner
Air Quality*	Applicant: Krishna Nand Staff: Joseph Loyer Air District: Mozen Nazami, John Yee
Public Health	Applicant: Ramon Abueg Staff: Bill Pfanner
Socioeconomics* (EJ)	Applicant: Ramon Abueg Staff: Dale Edwards
Cultural Resources	Applicant: Ramon Abueg Staff: Bill Pfanner
Geological/Paleontological Resources	Applicant: Ramon Abueg Staff: Bill Pfanner
Hazardous Materials	Applicant: Ramon Abueg Staff: Bill Pfanner
Waste Management	Applicant: Ramon Abueg Staff: Bill Pfanner
Traffic and Transportation	Applicant: Ramon Abueg Staff: Bill Pfanner
Visual Resources	Applicant: Ramon Abueg Staff: Bill Pfanner
Land Use	Applicant: Ramon Abueg Staff: Bill Pfanner

Biological Resources	Applicant: Ramon Abueg Staff: Bill Pfanner
Soil and Water Resources	Applicant: Ramon Abueg Staff: Bill Pfanner
Worker Safety and Fire Protection	Applicant: Ramon Abueg Staff: Bill Pfanner
Noise	Applicant: Ramon Abueg Staff: Bill Pfanner
Compliance and Closure	Applicant: Ramon Abueg Staff: Bill Pfanner

ATTACHMENT B
COMMITTEE SCHEDULE FOR REMAINDER OF PROCEEDING

The Committee has established the following schedule for filing prepared testimony, exhibits, and post hearing briefs:

COMMITTEE SCHEDULE

<i>EVENT</i>	<i>DATE</i>
All parties file prepared testimony, expert witness qualifications, relevant declarations, and exhibits	February 3, 2003 (5 p.m.)
All parties submit clarifications requested by the Committee	February 3, 2003 (5 p.m.)
All parties indicate intention to cross-examine another party's witness	February 3, 2003 (5 p.m.)
Evidentiary Hearing	February 10, 2003 (1:30 p.m.)
Applicant files post-hearing brief	<i>To Be Scheduled</i>
Staff files reply brief	<i>To Be Scheduled</i>
Committee issues Presiding Member's Proposed Decision (PMPD) and Notice of Committee Conference (30-day review)	<i>To Be Scheduled</i>
*Parties file written comments on PMPD	<i>To Be Scheduled</i>
*Committee Conference on PMPD; parties submit errata or other clarifications	<i>To Be Scheduled</i>
*Close of comment period on PMPD	<i>To Be Scheduled</i>
*Commission consideration of PMPD	<i>To Be Scheduled</i>

* These events will be noticed separately.